

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 17947 of 2004

Between:

Alli Appala Naidu, S/o. Pasayya,
R/o. Lagarai (V), Rajavommangi (M),
E.G. District.

..... PETITIONER

AND

- 1 The Special Deputy Collector, Tribal Welfare, Rampachodavaram, E.G. District.
- 2 The Special Deputy Tehsildar, Tribal Welfare, Rajavommangi Mandal, E.G. District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue appropriate writ or order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in initiating the proceedings against the petitioner under scheduled Areas Land Transfer Regulations in L.T.R.P.No. 85/2004 as illegal, arbitrary and unjust and also contrary to the judgment of the Division Bench of this Hon'ble Court reported in 2000(4) A.L.D. 443(DB) and consequently direct the respondents not to proceed further in L.T.R.P.No. 85/2004 on the file of the 1st respondent.

Counsel for the Petitioner: MR.K.VENKATESH

Counsel for the Respondents: GP FOR TRIBAL WELFARE.

The Court at the stage of admission made the following:

ORDER:

The petitioner claims to be in possession of the land ad-measuring 6 acres, in Sy.No.1/11 and 1/4, situated at Lagarai village, Rajavommangi Mandal, East Godavary District. On a complaint made by the 2nd respondent-Special Deputy Tahasildar, under Section 3 of the A.P. Scheduled Areas Land Transfer Regulation I of 59 (for short "the Regulation"), proceedings were initiated by the Deputy Collector (Tribal Welfare) in L.T.R.P.No.340 of 1984, holding that according to R.S.R., the land was waste land and that it was not a patta land, owned by anybody, much less, by the Tribal. The case, therefore, does not attract the provisions of the Regulation, and hence, further proceedings are dropped. Subsequently, the 2nd respondent initiated proceedings in L.T.R.P.No.85 of 2004, requiring the petitioner to show cause as to why he should not be evicted from the land in question, for which, the petitioner filed counter objections on 23-09-2004, and filed the present writ petition, contending that once it was held that the property is not a patta land, there is no provision for initiation of the impugned proceedings under the Regulation.

Learned counsel for the petitioner contended that the impugned proceedings were initiated contrary to the judgment of this Court in ***Special Deputy Collector (Tribal Welfare), Rampachodavaram, East Godavari District v. Datla Venkatapathi Raju***. He also relied upon another judgment reported in ***N.Durga Rao v. Special Deputy Collector (Tribal Welfare), Kota Ramachandrapuram, West Godavari District***.

Perused the material available on record. The questions as to whether the impugned proceedings were initiated at the instance of the parties or not, and whether the same are binding on the parties, have to be gone into by the 1st respondent-Special Deputy Collector. Further, since the petitioner has already filed his explanation, it is obligatory on the part of the 1st respondent to consider the same and pass appropriate orders, after providing adequate opportunity to the parties concerned. It is needless to observe that, if any ejectment order is passed for violation of the Regulations, the petitioner shall not be evicted from the land in question unless and until the statutory period of appeal is expired.

The writ petition is disposed of accordingly. No order as to costs.

A.GOPAL REDDY,J

Dated:05-10-2004

GJ

To

- 1 The Special Deputy Collector, Tribal Welfare, Rampachodavaram, E.G. District.
- 2 The Special Deputy Tehsildar, Tribal Welfare, Rajavommangi Mandal, E.G. District.
3. 2CCs to Government Pleader for Tribal Welfare, High Court Buildings, Hyderabad (OUT).
4. 2CD copies